

Before The
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)
)
 Cellular Service and Other)
 Commercial Mobile Radio Services)
 in the Gulf of Mexico)
)
 Amendment of Part 22 of the)
 Commission's Rules to Provide)
 for Filing and Processing)
 of Applications for Unserved)
 Areas in the Cellular Service)
 and to Modify Other Cellular Rules)

WT Docket No. 97-103

CC Docket No. 90-6

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

REPLY COMMENTS OF PETROLEUM COMMUNICATIONS, INC.

Petroleum Communications, Inc. ("PetroCom"), by its attorneys, hereby submits reply comments in the captioned proceeding.

1. Alltel. Alltel Corporation ("Alltel") argues for making the Commission's proposed 12-mile Coastal Zone a neutral "buffer" zone that both land and Gulf carriers could serve, subject to coordination.¹ Alltel fails to explain why such a "buffer" should be 12 miles wide, and why it should be limited to the water, rather than half on land and half on water. Alltel asserts that both land and Gulf carriers "lose something" in its proposal.² However, what Alltel cites as the land carriers' loss – no interference protection in the Coastal Zone – is something they never had to begin with. Further, accommodating Gulf carriers' service rights is a requirement already placed on land carriers. It represents no new burden on them. Simply put, the Alltel proposal will permit land carriers to

¹ Alltel Comments, p. 9.

² Id., p. 14.

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routinely capture Gulf customers *in the Gulf*, creating a degradation in service to those customers. While Alltel asserts that its proposal gives Gulf carriers “flexible parameters without fear of losing territory,”³ such is distinctly not the case – what heretofore has been exclusive Cellular Geographic Service Area (“CGSA”) for the Gulf carriers would be converted to a “buffer” zone shared with land carriers, an outcome in which it is only the Gulf carriers that lose territory. The land carriers lose nothing.⁴

2. Alltel asserts that land carriers have advised the Commission of service degradation problems.⁵ The problems Alltel describes are, at best, anecdotal. Alltel provides no evidence that the Gulf carriers are the cause of its problems.⁶ It further asserts that Gulf carriers have a “virtual

³ Id., p. 14.

⁴ Alltel’s argument that the Commission’s Section 303 authority permits a conversion of Gulf carriers’ CGSA into a “buffer” zone is meritless. In *Committee for Effective Cellular Rules v. Federal Communications Commission*, 53 F.3d 1309, 1318 (D.C. Cir. 1995), the Court made clear that the Commission cannot avoid adjudicatory procedures for granting and modifying individual licenses. While rule changes involving procedures for processing unserved area applications, for example, would apply to all licensees, Alltel’s proposal would revise rules in a manner that would single out only the two Gulf cellular licensees for reduction of their licensed CGSAs, while enlarging the market boundaries of another small class of individual licensees – land carriers adjacent to the Gulf. Alltel’s proposal is not one of general applicability which the Commission can adopt through rulemaking, but rather one which would establish new authorized operators in the “buffer” zone in a manner that substantially dilutes the licensing authority of the two Gulf carriers, something it lacks the authority to do under Section 303 of the Act.

⁵ Alltel Comments, p. 7.

⁶ On January 21, 1998, PetroCom and Coastel submitted a study (conducted by Tom L. Dennis, P.E.) demonstrating that land carriers were capturing their traffic, not vice versa. The study was based on a fully instrumented test drive from High Island, Texas to near Freeport, Texas. The measurement data shows that the “B” side land carrier’s cell site signaling channel never drops below -88 dBm on the entire drive, and the “A” side land carrier’s signaling channels never drops below -90 dBm with at least one signaling channel exceeding -80 dBm for all but 12 kilometers of the 113 kilometer test drive. Unlike the land carriers’ anecdotal evidence, the Gulf carriers’ study is based on real world signal strength measurements and has never been rebutted.

veto power” over a land carrier’s ability to provide reliable service in coastal areas.⁷ However, it fails to explain how or why this situation between land and Gulf carriers should be any different from one involving two adjacent land carriers. The issue appears to be one of cost. Land carriers apparently do not desire to make expenditures for microcells to fill in coverage gaps in a manner that stays within authorized boundaries, or to engage in “give and take” negotiations of the kind that result in extension agreements between adjacent land carriers. Instead, they make proposals that simply gives them service area outside those boundaries by taking it from the Gulf carriers, after blaming Gulf carriers for coverage problems resulting from their own incomplete system buildouts.

3. Alltel’s assertion that Gulf carriers are not concerned with E-911 service just because PetroCom requested that the Coast Guard be designated the Public Safety Answering Point (“PSAP”) is misleading, given there are no PSAPs in the waters of the Gulf.⁸ Alltel fails to explain how routing emergency calls from a Gulf carrier’s system to the Coast Guard could possibly be seen as “compromising public safety” as it asserts.⁹

4. GTE. GTE Service Corporation (“GTE”), which supports Alltel’s proposal, asserts that land carriers are unable to produce a -75 dbm signal along the beachfront because their contours must end at the coastline.¹⁰ This assertion is made despite hard data to the contrary.¹¹ GTE, like Alltel,

⁷ Id.

⁸ Id., p. 8.

⁹ Id., p. 14.

¹⁰Supplemental Comments of GTE, at p. 4. BellSouth Corporation (“BellSouth”) also supports the Alltel proposal. Further Comments of BellSouth Corporation, p. 2.

¹¹ See footnote 6, supra.

ignores microcell engineering as a possible solution. It also ignores the joint PetroCom/U.S. Cellular proposal (“Joint Proposal”) which allows a carrier to have non-consensual SAB contour extensions beyond the coastline, resulting from the Section 22.911(a)(1) formula, if necessary to equalize signal strengths at that boundary, though such extensions would not be included as part of the carrier’s CGSA.¹²

5. GTE’s entire argument against the Joint Proposal is fatuous. It blatantly ignores that the proposal calls for equalizing signal strengths at the coastline boundary based on real world measurement data, *not* the 32 dbu-based formula. While the 32 dbu formula under the Joint Proposal serves as the means for calculating service area boundaries (SABs), the SABs generated by the formula may extend beyond the coastline boundary if necessary for one carrier to equalize signal strength at the boundary with the other carrier *based on real world measurement data, not the formula*. GTE misleadingly ignores the real world measurements which are central to the Joint Proposal for equalizing signal strengths. How one carrier could capture any significant amount of the other carrier’s traffic across the boundary in a scenario where actual signal strengths have been equalized based on real world measurement data is inconceivable.¹³ The premise of GTE’s argument is that the Joint Proposal for equalizing signal strength uses the 32 dbu formula for that purpose. That premise is wrong. GTE’s comments thus have no substance.

6. GTE likewise misunderstands the 5-year period called for by the Joint Proposal that would occur before land carriers could begin serving areas beyond the coastline boundary not served by the

¹² This provision is Point 2 of the Joint Proposal.

¹³ GTE also argues that allowing Gulf carriers to use 32 dbu contours will give them a stronger signal in a land carrier’s CGSA, again ignoring that the Joint Proposal permits carriers to operate at *equal* signal strengths at the boundary. GTE Comments, p. 15.

Gulf carriers without their consent, and the Gulf carriers could begin exercising limited reclamation rights. The 5-year period is intended to permit carriers to make system adjustments using the same formula (Section 22.911(a)(1)) for calculating SABs. At the end of that period, areas (if any) that were not being served would then be identifiable. A period shorter than 5 years for this period of adjustment may be reasonable. In any event, the reclamation right that Gulf carriers could start exercising at the end of the period would be limited. Specifically, as stated in Point 6 of the Joint Proposal, if a Gulf carrier could not generate equal signal strength at the coastline boundary, the land carrier would be required to reduce ERP but not below what is required to provide a sufficiently strong signal (-100 dbm) at the boundary so it can continue to serve land-based customers, regardless of whether any reduced signal strength still remains higher than that of the Gulf carrier exercising reclamation rights. GTE ignores these provisions of the Joint Proposal. Its assertion that a land carrier's investment in operations to cover area vacated by a Gulf carrier would be "revocable at the whim of a competing cellular provider" thus is meritless.¹⁴

7. The examples of customer complaints GTE submits are mostly undated with no names. Only a few of them deal with subscriber capture. Most deal with lack of service, presumably due to the pullback from Bachow/Coastel, L.L.C.'s service area GTE recently was ordered to make.¹⁵ Again, GTE ignores the possibility of using microcells to fill in gaps in coverage areas or negotiating mutual extension agreements (or co-location agreements) in good faith, solutions cellular carriers in metropolitan areas routinely implement. GTE, like Alltel, instead chooses to simply blame the Gulf

¹⁴ GTE Comments, p. 19.

¹⁵ DW Communications, Inc. ("DWC") incorrectly cites the feud as between GTE and PetroCom. Reply Comments of DWC, p. 4. The feud is between GTE and Coastel.

carrier for its problems and insist that the Commission grant it the unilateral right to capture Gulf customers through implementation of the Alltel proposal.¹⁶

8. Coastel. Bachow/Coastel, L.L.C. (“Coastel”) argues that the Commission has not justified its proposed rules or otherwise shown a need to alter the status quo when it comes to cellular licensing rules for systems in and near the Gulf.¹⁷ Coastel argues that the Commission should therefore terminate the rulemaking.¹⁸ Specifically, Coastel argues that there has been no factual showing of unreliability of service along the coastline and, indeed, coverage has improved.¹⁹ Coastel also states that the Notice of Proposed Rule Making which initiated this proceeding has deterred land carriers from entering into extension agreements with Coastel. For these reasons, Coastel concludes that enforcement of the current rules, as was done recently to require GTE to pullback contours extending into Coastel’s CGSA, is the best outcome here, providing certainty, equal leverage to land and Gulf carriers in negotiations, and incentives for Gulf carriers to continue to develop their systems.¹⁷

9. Coastel argues against the adoption of a Gulf formula for land contours extending over water and against the adoption of a hybrid formula.¹⁸ It argues that land carriers should be required

¹⁶ Similarly, SBC Wireless, Inc. (“SBC”) provides no current evidence of alleged customer service problems, referring only to its 1997 comments. Supplemental Comments of SBC Wireless, Inc., pp. 1-2.

¹⁷ Comments of Bachow/Coastel, L.L.C., p. 4.

¹⁸ Id., p. 5.

¹⁹ Id., p. 6. For example, Coastel points out that land-based carriers cover in excess of 4,650 square miles into the GMSA off the Florida coast. Id., p. 8.

¹⁷ Id., p. 10.

¹⁸ Id., p. 14.

to calculate SABs using the water-based formula for sites within 35 miles of water, with contract extensions based on these calculations. Coastel proposes a reciprocal rule for Gulf carriers.¹⁹ It argues that the Commission's proposed rules will not reduce conflict between land and Gulf carriers, only shift it.²⁰ It further argues that the Commission's proposed "move it you lose it" rule for Gulf carriers and proposed auctioning of unserved areas will not withstand judicial review.²¹ According to Coastel, taking territory from Gulf carriers would require a Section 316 hearing.²²

10. While PetroCom agrees with Coastel that the record does not even remotely support proposals to take service area away from Gulf carriers and either give it away to land carriers or conduct auctions, it has concluded that the Joint Proposal is the most efficient way of resolving the main problem of how to protect land and Gulf carriers from subscriber capture interference while accommodating the Gulf carrier's "unique plight" of providing cellular service from itinerant platforms. Although leaving the current rules unchanged and enforcing them might be a solution, PetroCom submits that the Joint Proposal is a better approach. First, both land and Gulf carriers would be required to use the same land-based formula for calculating SABs with a coastline defined by geographic coordinates.²³ Second, either type of carrier, using measurement data, would have

¹⁹ Id., p. 15.

²⁰ Id., p. 16.

²¹ Id., pp. 19-23.

²² Id., p. 24. PetroCom concurs with Coastel's analysis. PetroCom's May 15, 2000 comments in this proceeding incorporated by reference all of its legal arguments opposing the Commission's new licensing proposal for the Gulf. Indeed, no commenter in this proceeding supports that proposal.

²³ Commenters supported defining a boundary with geographic coordinates. PetroCom's initial 1997 comments provided a set of coordinates which no commenter disputed.

the flexibility of increasing ERP on a notification basis in order to equalize actual, measured signal strength at the boundary, although the carrier would have no interference protection for resulting extensions that crossed the boundary. Given that the measurements are performed by designated firms following objective standards, there would be less likelihood of challenges and Commission involvement compared to the current situation where a carrier seeks enforcement through the formal complaint process and litigation. While the process set forth in the Joint Proposal conceivably could still lead to carrier complaints brought before the Commission, PetroCom submits that there would be substantially less likelihood of that happening compared to enforcement of the current rules unchanged. Nonetheless, PetroCom would agree that the status quo and enforcement of the current rules should be preferred by the Commission over the other proposals before it, none of which have the adequate factual or legal support to be adopted.

11. Stratos. Stratos Offshore Services Company (“Stratos”) argues that the Commission should license all non-cellular Commercial Mobile Radio Services, except PCS, as quickly as possible.²⁴ Stratos argues that PCS should not be licensed because it would displace much-needed microwave operations.²⁵ It further argues that no showing of demand should be required for licensing new CMRS spectrum because such demand showings have not been required elsewhere.²⁶ Stratos states that Specialized Mobile Radio (“SMR”), including 220 MHZ SMR, is especially needed for its planned deployment of a 2-way dispatch system in the Gulf.²⁷

²⁴ Stratos Comments, p. 2.

²⁵ *Id.*

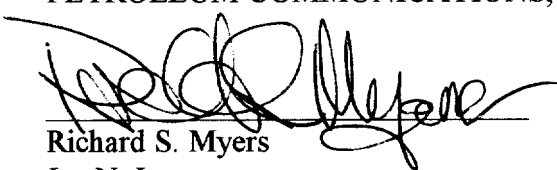
²⁶ *Id.*, p. 4.

²⁷ *Id.*, pp. 5-6.

12. PetroCom agrees that PCS should not be licensed in the Gulf at this time, but for reasons different from those cited by Stratos. PCS should not be licensed in the Gulf because no demand for PCS has been demonstrated, not because Stratos' existing 2 GHz facilities deserve special protection not afforded to land-based incumbents.²⁸ As far as SMR is concerned, the more rationale approach would be to license the 800 MHz SMR spectrum first, which has already been licensed in the Gulf on a site-by-site basis and for which equipment technology has been more fully developed and deployed in comparison to the 220 MHz service. However, with the recent scheduling of the 700 MHz auction for areas including the Gulf, PetroCom submits that 700 MHz should be licensed first before other additional spectrum.²⁹ The Commission must bear in mind the unique nature and economics of the Gulf when it comes to spectrum allocation decisions. Ensuring that there is an actual demand for a particular service in the Gulf before allocating more spectrum to meet that demand is the only responsible approach the Commission should take.

Respectfully submitted,
PETROLEUM COMMUNICATIONS, INC.

By:



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²⁸ PetroCom's position that PCS should not be licensed in the Gulf thus accords with Verizon Wireless' view that the Gulf should not be separately licensed for PCS. Comments of Verizon Wireless, p. 2. However, concerns will arise should land-based PCS licensees seek to provide service beyond state county lines based on claimed authority to serve the entire Gulf.

²⁹ PetroCom agrees with DWC that licensing 700 MHz service in the Gulf would eliminate any need to license PCS. DWC ("Reply") Comments, p. 2. DWC, like PetroCom, finds that economic demand in the Gulf is lacking to support the licensing of additional spectrum. *Id.*, pp. 8-9. It is this lack of demand that argues against licensing 900 MHz systems in the Gulf at this time, not the expectations of land-based licensees as DWC argues. *Id.*, p. 13.

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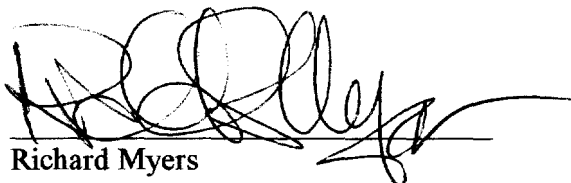
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